

**STATEMENT OF CONSIDERATION RELATING TO  
907 KAR 1:102**

**Department for Medicaid Services  
Amended After Comments**

(1) A public hearing regarding 907 KAR 1:102 was not requested and; therefore, not held.

(2) The following individual submitted written comments regarding 907 KAR 1:102:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Kathy Adams, Director of Public Policy	The Children's Alliance

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 1:102:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Stuart Owen, Regulation Coordinator	Department for Medicaid Services

**SUMMARY OF COMMENTS AND AGENCY'S RESPONSES**

(1) Subject: The use of "medical record" and "health record"

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

"The phrase the 'medical record' and 'health record' are used throughout this regulation. Recommend that either 'medical record' or 'health record' be used for consistency throughout this regulation and other related regulations, if these phrases refer to the same thing. . If the phrases have different meanings, then we recommend that these phrases be defined in Section 1 to clarify the difference.

(b) Response: Via an "amended after comments" administrative regulation the Department for Medicaid Services (DMS) is adopting the term "health record" in all instances.

(2) Subject: "Necessity, function and conformity"

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:

**"Page 1, Line 13-15 Recommend that language be added to the 'Necessity, function and conformity' section to clarify that this regulation applies to Medicaid recipients, including those enrolled with a managed care organization."**

**(b) Response: DMS prefers to keep the language as is (pasted below) as it establishes that the regulation applies to the entire Medicaid program.**

**"This administrative regulation establishes the provisions relating to advanced practice registered nurse services covered by the Medicaid Program."**

**(3) Subject: Overpayment**

**(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:**

**"Page 7, line 17-21 Recommend that line 19 be amended to add language that clarifies the duplicate payment or overpayment shall be returned to the department or managed care organization that issued the duplicate payment or overpayment, such as '.....the provider shall return the payment to the department or managed care organization that issued the duplicate payment or overpayment.'"**

**(b) Response: DMS is amending the language as recommended via an "amended after comments" administrative regulation.**

**(4) Subject: Use of the word "practitioner"**

**(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:**

**"Page 9, line 19, Page 10, line 6, Page 10, line 22 The word 'practitioner' is used numerous times throughout Section 3 and the use is unclear. Should this word be defined or should a more specific term be used instead (i.e. APRN)."**

**(b) Response: Via an "amended after comments" administrative regulation DMS is revising the term to "APRN."**

**(5) Subject: Claim Audit**

**(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance stated the following:**

**Page 16, line 15-16 Recommend that provisions be added to Section 10 to provide a managed care organization the same authority to audit any claim, medical record or documentation associated with any claim or medical record for an enrollee, as the department."**

(b) Response: Via an "amended after comments" administrative regulation DMS is incorporating the recommendation into the administrative regulation as follows:

"Section 10. Auditing Authority. The department or the managed care organization in which an enrollee is enrolled shall have the authority to audit any:

(1) Claim;

(2) [.] Medical record; [.] or

(3) Documentation associated with the claim or medical record."

(6) Subject: Locum Tenens

(a) and (b): Comment and Response: Via an "amended after comments" administrative regulation, DMS is deleting the subsection – subsection (2) - from Section 6 regarding a locum tenens APRN having to have the same or a similar specialty as the APRN for whom the locum tenens is serving as a locum tenens if the APRN has a specialty.

Related to this subject DMS is amending subsection (1) of this same section by inserting a reference to two (2) Kentucky Board of Nursing administrative regulations – 201 KAR 20:056 and 201 KAR 20:057. The Section 6 amendments appear in the "amended after comments" administrative regulation as follows:

"Section 6. Locum Tenens. [(1)] The department shall cover services provided by a locum tenens APRN or locum tenens physician under this administrative regulation:

(1) If the service meets the requirements established in this administrative regulation; and

(2) In accordance with:

(a) 201 KAR 20:056; and [If an APRN for whom a locum tenens APRN is substituting has a specialty, the locum tenens APRN shall have the same or a similar specialty.]

(b) 201 KAR 20:057 [The department shall not reimburse for services provided by a locum tenens APRN who does not have the same or a similar specialty as the APRN for whom the locum tenens APRN is substituting]."

The above amendments result from a meeting with representatives of the Kentucky Coalition of Nurse Practitioners & Nurse Midwives regarding the topic of locum tenens APRN requirements.

**SUMMARY OF STATEMENT OF CONSIDERATION  
AND  
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY**

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 1:102 and is amending the administrative regulation as follows:

**Page 7**

**Section 2(3)(a)**

**Line 18**

After "organization", insert the following:  
that issued the duplicate payment or overpayment

**Page 9**

**Section 2(8)(a)**

**Line 2**

After "by", insert "health".  
Delete "medical".

**Page 9**

**Section 2(8)(b)**

**Line 10**

Before "medical", insert "health".  
Delete "medical".

**Page 9**

**Section 3(1)(a)1.**

**Line 19**

After "between the", insert "APRN".  
Delete "practitioner".

**Page 10**

**Section 3(1)(c)**

**Line 6**

After "the", insert "APRN".  
Delete "practitioner".

**Page 10**

**Section 3(1)(c)13.**

**Line 22**

After "between the", insert "APRN".  
Delete "practitioner".

**Page 15**

**Section 6(1)**

**Line 4**

After "Tenens.", delete "(1)".

**Line 5**

After "regulation", insert a colon, a return, and "(1)".

**Line 6**

After "regulation", insert a semi-colon, a return, and "and".

**Page 15**

**Section 6(2)(a)**

**Line 7**

After "(2)", insert "In accordance with:".

**Page 15**

**Section 6(2)(a)**

**Lines 7 and 8**

After "(a)", insert "201 KAR 20:056; and".

Delete the following:

If an APRN for whom a locum tenens APRN is substituting has a specialty, the locum tenens APRN shall have the same or a similar specialty.

**Page 15**

**Section 6(2)(b)**

**Lines 9 to 11**

After "(b)", insert "201 KAR 20:057".

Delete the following:

The department shall not reimburse for services provided by a locum tenens APRN who does not have the same or a similar specialty as the APRN for whom the locum tenens APRN is substituting

**Page 16**

**Section 10**

**Line 15**

After "department", insert the following:

or the managed care organization in which an enrollee is enrolled

After "any", insert a colon, a return, and "(1)".

**Line 16**

After "claim", insert a semi-colon, a return, and "(2) Health".

Delete ", Medical".

After "record", insert a semi-colon.

Delete the comma.

After "record, or", insert a return and "(3)".

After "claim or", insert "health".

Delete "medical".